

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP, AND MECHANICAL VENTILATOR PRODUCTS LITIGATION	:	Master Docket: No. 21-mc-1230-JFC
	:	
	:	MDL No. 3014
	:	
This Document Relates to:	:	SHORT FORM COMPLAINT FOR
	:	PERSONAL INJURIES, DAMAGES,
	:	AND DEMAND FOR JURY TRIAL
2:21-cv-00120	:	

Plaintiff incorporates by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed *in In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the “Master Long Form Complaint”). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff further alleges as follows:

I. DEFENDANTS

1. Plaintiff names the following Defendants in this action:

- a. Koninklijke Philips N.V.
- b. Philips North America LLC.
- c. Philips RS North America LLC.
- d. Philips Holding USA Inc.
- e. Philips RS North America Holding Corporation

f. Polymer Technologies, Inc.

g. Polymer Molded Products LLC.

II. PLAINTIFF

2. Plaintiff's name is Hendley Wilder, the natural mother of Jaye Wilder, deceased.

3. Plaintiff residence is State of Georgia.

III. DESIGNATED FORUM

4. Plaintiff would have filed in the absence of direct filing in the United States District Court – Middle District of Georgia.

IV. USE OF A RECALLED DEVICE

5. Plaintiff used the recalled device, Trilogy 200.

V. INJURIES

6. Plaintiff alleges the Plaintiff, Jaye Wilder, died as a result of using a Recalled Device together with the attendant symptoms and consequences associated therewith.

VI. CAUSES OF ACTION/DAMAGES

7. As to Koninklijke Philips N.V., Plaintiff adopts the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and pray for relief with regard thereto, as set forth therein:

- a. Count I: Negligence
- b. Count II: Strict Liability: Design Defect
- c. Count III: Negligent Design
- d. Count IV: Strict Liability: Failure to Warn

- e. Count V: Negligent Design
- f. Count VI: Negligent Recall
- g. Count VII: Battery
- h. Count VIII: Strict Liability: Manufacturing Defect
- i. Count IX: Negligent Manufacturing
- j. Count X: Breach of Express Warranty
- k. Count XI: Breach of the Implied Warranty of Merchantability
- l. Count XII: Breach of the Implied Warranty of Usability
- m. Count XIII: Fraud
- n. Count XIV: Negligent Misrepresentation
- o. Count XV: Negligence Per Se
- p. Count XVI: Consumer Fraud and/or Unfair Deceptive Practices
- q. Count XVII: Unjust Enrichment
- r. Count XVIII: Survivorship and Wrongful Death
- s. Count XIX: Medical Monitoring
- t. Count XX: Punitive Damages

8. As to Philips RS North America LLC, Plaintiff adopts the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and pray for relief with regard thereto, as set forth therein:

- a. Count I: Negligence
- b. Count II: Strict Liability: Design Defect
- c. Count III: Negligent Design

- d. Count IV: Strict Liability: Failure to Warn
- e. Count V: Negligent Design
- f. Count VI: Negligent Recall
- g. Count VII: Battery
- h. Count VIII: Strict Liability: Manufacturing Defect
- i. Count IX: Negligent Manufacturing
- j. Count X: Breach of Express Warranty
- k. Count XI: Breach of the Implied Warranty of Merchantability
- l. Count XII: Breach of the Implied Warranty of Usability
- m. Count XIII: Fraud
- n. Count XIV: Negligent Misrepresentation
- o. Count XV: Negligence Per Se
- p. Count XVI: Consumer Fraud and/or Unfair Deceptive Practices
- q. Count XVII: Unjust Enrichment
- r. Count XVIII: Survivorship and Wrongful Death
- s. Count XIX: Medical Monitoring
- t. Count XX: Punitive Damages

9. As to Philips Holding USA Inc., Plaintiff adopts the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and pray for relief with regard thereto, as set forth therein:

- a. Count I: Negligence
- b. Count II: Strict Liability: Design Defect

- c. Count III: Negligent Design
- d. Count IV: Strict Liability: Failure to Warn
- e. Count V: Negligent Design
- f. Count VI: Negligent Recall
- g. Count VII: Battery
- h. Count VIII: Strict Liability: Manufacturing Defect
- i. Count IX: Negligent Manufacturing
- j. Count X: Breach of Express Warranty
- k. Count XI: Breach of the Implied Warranty of Merchantability
- l. Count XII: Breach of the Implied Warranty of Usability
- m. Count XIII: Fraud
- n. Count XIV: Negligent Misrepresentation
- o. Count XV: Negligence Per Se
- p. Count XVI: Consumer Fraud and/or Unfair Deceptive Practices
- q. Count XVII: Unjust Enrichment
- r. Count XVIII: Survivorship and Wrongful Death
- s. Count XIX: Medical Monitoring
- t. Count XX: Punitive Damages

10. As to Philips RS North America Holding Corporation, Plaintiff adopts the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and pray for relief with regard thereto, as set forth therein:

- a. Count I: Negligence

- b. Count II: Strict Liability: Design Defect
- c. Count III: Negligent Design
- d. Count IV: Strict Liability: Failure to Warn
- e. Count V: Negligent Design
- f. Count VI: Negligent Recall
- g. Count VII: Battery
- h. Count VIII: Strict Liability: Manufacturing Defect
- i. Count IX: Negligent Manufacturing
- j. Count X: Breach of Express Warranty
- k. Count XI: Breach of the Implied Warranty of Merchantability
- l. Count XII: Breach of the Implied Warranty of Usability
- m. Count XIII: Fraud
- n. Count XIV: Negligent Misrepresentation
- o. Count XV: Negligence Per Se
- p. Count XVI: Consumer Fraud and/or Unfair Deceptive Practices
- q. Count XVII: Unjust Enrichment
- r. Count XVIII: Survivorship and Wrongful Death
- s. Count XIX: Medical Monitoring
- t. Count XX: Punitive Damages

11. As to Polymer Technologies, Inc., Plaintiff adopts the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and pray for relief with regard thereto, as set forth therein:

- a. Count I: Negligence
- b. Count II: Strict Liability: Design Defect
- c. Count III: Negligent Design
- d. Count IV: Strict Liability: Failure to Warn
- e. Count V: Negligent Design
- f. Count VI: Negligent Recall
- g. Count VII: Battery
- h. Count VIII: Strict Liability: Manufacturing Defect
- i. Count IX: Negligent Manufacturing
- j. Count X: Breach of Express Warranty
- k. Count XI: Breach of the Implied Warranty of Merchantability
- l. Count XII: Breach of the Implied Warranty of Usability
- m. Count XIII: Fraud
- n. Count XIV: Negligent Misrepresentation
- o. Count XV: Negligence Per Se
- p. Count XVI: Consumer Fraud and/or Unfair Deceptive Practices
- q. Count XVII: Unjust Enrichment
- r. Count XVIII: Survivorship and Wrongful Death
- s. Count XIX: Medical Monitoring
- t. Count XX: Punitive Damages

12. As to Polymer Molded Products LLC, Plaintiff adopts the following claims asserted in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial, and the allegations and pray for relief with regard thereto,

as set forth therein:

- a. Count I: Negligence
- b. Count II: Strict Liability: Design Defect
- c. Count III: Negligent Design
- d. Count IV: Strict Liability: Failure to Warn
- e. Count V: Negligent Design
- f. Count VI: Negligent Recall
- g. Count VII: Battery
- h. Count VIII: Strict Liability: Manufacturing Defect
- i. Count IX: Negligent Manufacturing
- j. Count X: Breach of Express Warranty
- k. Count XI: Breach of the Implied Warranty of Merchantability
- l. Count XII: Breach of the Implied Warranty of Usability
- m. Count XIII: Fraud
- n. Count XIV: Negligent Misrepresentation
- o. Count XV: Negligence Per Se
- p. Count XVI: Consumer Fraud and/or Unfair Deceptive Practices
- q. Count XVII: Unjust Enrichment
- r. Count XVIII: Survivorship and Wrongful Death
- s. Count XIX: Medical Monitoring
- t. Count XX: Punitive Damages

WHEREFORE, Plaintiff prays for relief and judgment against the Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form

Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff may be entitled.

Date: January 27, 2023

Respectfully Submitted,

/s/ David Dozier

David Dozier (GA228898)

david@dozierlaw.com

Eric J. Alvarez (GA477573)

eric@dozierlaw.com

DOZIER LAW FIRM, LLC

487 Cherry Street

Macon, GA 31201

Tel: 478.742.8441